PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED
05/19/21
10:47 AM

May 19, 2021

Agenda ID # 19535
Quasi-Legislative

TO PARTIES OF RECORD IN RULEMAKING 14-07-002 ET AL:

This is the proposed decision of Commissioner Martha Guzman Aceves. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's June 24, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:gp2

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER GUZMAN ACEVES**
(Mailed 5/19/2021)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.	Rulemaking 14-07-002
And Related Matters.	Application 16-07-015

SOLAR CONSUMER ASSISTANCE FUND FOR NET ENERGY METERING CUSTOMERS

TABLE OF CONTENTS

Title **Page**

SOLAR CONSUMER ASSISTANCE FUND FOR NET ENERGY METERING CUSTOMERS

Summary

This decision establishes an assistance fund for residential customers of the investor-owned electric utilities who have not received the expected benefits of their net energy metering solar installations either due to fraud, poor workmanship, or other violations of Contractors License Law, and where no other administrative remedy for consumer financial assistance is available. The assistance fund will protect the integrity of the net energy metering (NEM) program by ensuring consumers receive the expected benefits of solar projects and do not suffer economic harm from fraud. The amount of assistance will be determined by the Contractors State License Board through its existing complaints adjudication process. This consolidated proceeding remains open.

1. Background

The consumer protections phase of this proceeding has extensively considered various approaches to address fraud and other harmful and illegal practices impacting solar consumers. The Commission has already adopted measures to deter future violations by improving information collection and strengthening interagency coordination in support of oversight in Decision (D.) 20-02-011, and to implement and enforce measures to ensure solar consumers are better informed about the considerations of going solar in D.18-09-044.

As a complement to these adopted measures which seek to prevent future harms, this proceeding has also been considering solutions that ameliorate existing consumer harms. The concept of a fund that provides financial assistance to victimized solar consumers has been repeatedly raised. The March 8, 2019 *Assigned Commissioner's Ruling Regarding Enhanced Consumer*

Protections for Net Energy Metering Customers (first enhanced consumer protections ACR) invited comments on enhanced consumer protections measures including the creation of a fund. The October 18, 2019 *Assigned Commissioner's Ruling regarding enhanced consumer protections via potential modifications to customer information packet signature requirement, and solar provider registration process for interconnecting under net energy metering* (second enhanced consumer protections ACR) also raised the potential for a fund funded by citation program penalties.

Parties provided comments on these ideas, including:

- A neutral party such as Commission staff should coordinate on issues, interact with consumers with complaints, help direct cases to other agencies as needed, and help consumers determine whether solar providers or their agents have a valid license or complaints against them;
- Any Commission system for imposing penalties could focus on misrepresentations, violation of interconnection requirements, and blatant deception; existing civil and criminal penalties do not adequately address the problem.

Building on this record, the assigned commissioner issued a proposal to create a fund to assist customers (ACR) on September 3, 2020. The fund would provide assistance for residential customers of electric investor-owned utilities who are affected by inadequate solar installations. The ACR stated that D.20-02-011 noted the intent of the Commission to consider a fund for solar consumers affected by inadequate solar installations. D.20-02-011 stated that: "[Investor-owned utility (IOU)] ratepayers being defrauded or misled, and being saddled with solar systems that do not provide benefits, runs counter to our energy goals and our overall responsibility to ensure a reliable electric grid… Some stakeholders assert that industry's existing voluntary practices of

complaint resolution are enough. We are not persuaded by this last point, particularly in the absence of any substantive, collective industry commitment to ensuring that some of the most egregious cases can be resolved. More must be done."[1]

The ACR described the solar fraud problems that have been repeatedly raised in this proceeding, stating "concern over solar fraud, particularly from unscrupulous lead generators and sales agents misleading consumers into entering harmful transactions, has grown." Parties have previously described the problems on the record; California Low-Income Consumer Coalition (CLICC), which consists of thirteen member organizations that provide free legal services, stated in 2019 that "over the past several years, CLICC's members have seen an influx of vulnerable homeowners trapped in clean energy financing and/or solar lease agreements that they do not understand and cannot afford. These homeowners were often tricked into signing these agreements based on gross misrepresentations. CLICC member organizations have witnessed identical abuses in the solar industry in locations as far-flung as Alameda, Los Angeles, Monterey, Orange, and San Diego counties."[2]

The ACR also noted that the Contractors State License Board (CSLB) and the Commission participate in the Interagency Solar Consumer Protection Taskforce (Taskforce), which considers potential solutions to the issue of inadequate solar installations and consumer protections. The ACR asserted that the CSLB reported at the August 2020 Taskforce meeting the following facts based on CSLB's review of the practices of solar contractors:

---

[1] D.20-02-011 at 21-22.

[2] CLICC Opening comments responding to first consumer protections ACR, at 2.

- CSLB received an average of 90 new solar-related complaints per month in Fiscal Year (FY) 2019-20. This monthly average complaint count is the highest CSLB has experienced since 2015.
- In FY 2019-20, 122 complaints were referred by the CSLB to legal action. In terms of CSLB's process, "referring a complaint to legal action" means that the CSLB registrar has asserted through an investigation that there is a preponderance of the evidence, or clear and convincing evidence, that the violation has occurred. Legal actions include, for example, a citation or license revocation or suspension. A much higher number of complaints are closed due to insufficient evidence, are settled or referred to arbitration than are referred to legal action.
- Between January 2018 and July 2020, CSLB referred 251 solar-related complaints to legal action. Of these, 141 complaints were closed by the CSLB because the contractor's license had already been revoked. In these cases, the CSLB adds the consumer's complaints to the series of complaints already reflected in the accusation against the license and records any additional financial injury owed to the consumer against the license. That amount will need to be paid by the contractor if the contractor is ever going to be licensed again.
- 17 complaints involved unlicensed contractors.
- In 110 of the 251 solar-related complaints referred to above, the CSLB alleged either misrepresentation in violation of Business and Professions Code (BPC) § 7161 or a willful and fraudulent act in violation of BPC § 7116.
- In 124 of the 251 solar-related complaints referred to above, the CSLB alleged poor workmanship in violation of BPC § 7109.
- In 72 of the 251 solar-related complaints referred to above the CSLB alleged abandonment of the project by the contractor without legal excuse, in violation of BPC § 7107.[3]

The ACR further asserted that inadequate solar installations particularly harmed low-income, elderly, and non-English speaking consumers and communities. The ACR reasoned that adoption of its proposed recovery fund in

[3] ACR at 4-5.

tandem with continued coordination between the partner agencies of the Interagency Solar Consumer Protection Taskforce would provide customers affected by inadequate solar installations with assistance that also advances California's mandate in sustaining the growth of distributed renewable generation.[4]

2. Proposed NEM Assistance Fund

The ACR proposed the adoption of a fund that would protect the integrity of the NEM program by ensuring consumers receive the expected benefits of solar projects and do not suffer economic harm from fraud as determined in the CSLB's formal adjudication process. The ACR intended for the fund to be retroactive, reimbursing customers for economic harm incurred in the past, noting that the Commission's previously-adopted measures focused on prevention, and that solutions for violations that have already occurred were needed.[5] The ACR also intended the recovery fund to provide a streamlined administrative process for customers affected by inadequate solar installations, recognizing that the ability for many of these customers to pursue a full remedy in civil court is limited.[6]

In general, the ACR proposed the following elements for the fund:

- A fund account would be created by the IOUs and overseen by the Commission.
- A residential NEM consumer protection interconnection surcharge would be established, and the IOUs would collect it and place the revenue into the fund.

[4] ACR at 6.

[5] ACR at 6.

[6] ACR at 6-7.

- The fund would be administered by a third-party recovery fund administrator (RFA) under contract with the Commission or via a contract with one of the IOUs under Commission oversight.
- Under the memoranda of understanding (MOU) established under the Interagency Solar Consumer Protection Taskforce, the RFA would receive eligible claims from the CSLB (i.e., a "referred complaint" from the CSLB), verify recipient eligibility, and disburse funds to claimants.
- In all cases in which consumers recover from the fund, the RFA will forward a certified attestation of that fact to the CSLB for inclusion in the contractor's license record.[7]

The ACR proposed that following types of inadequate solar installations, if verified by the CSLB through their adjudicatory process, would make an affected customer eligible for compensation from the recovery fund:

1) Referred complaints in which the CSLB alleges misrepresentation and/or fraud in violation of BPC §§ 7161 and 7116. Generally, affected customers in this category would have been misled about the real cost of investing in distributed solar as well as the cost of energy for solar consumers. This category could also include situations where a customer suffers harms resulting from more general lies or other misrepresentations; for example, if the customers did not even know they were agreeing to install solar.
2) Referred complaints in which the solar system at issue was partially installed and not connected to the grid, incomplete in another way, or was otherwise stranded. Examples of these types of complaints include those related to non-interconnected systems, systems with noncompliant inverters, and systems which require panel installation.
3) Referred complaints regarding inadequate solar installations which are not covered by any of the aforementioned categories.

In addition to specifying the categories of claims, the ACR proposed the following eligibility criteria in order for a customer to receive a payment from the recovery fund:

[7] ACR at 7-8.

1) The customer must be an active residential customer of the electric IOUs, taking service under the NEM tariff or eligible to do so, and whose claims are referred to the RFA by the CSLB. The ACR stated that claims related to installations using Property Assessment Clean Energy (PACE) financing would be ineligible.

2) The customer must have exhausted administrative remedies for compensation such that the only cases referred to the RFA would be solar complaint cases in which the CSLB determined that fraud, misrepresentation, poor workmanship and/or abandonment occurred; the consumer was financially harmed; payment of a specified sum to an injured party was established or an amount of restitution was ordered; and the consumer did not recover funds. The ACR proposed that the claim would meet this criterion if CLSB affirmed that the claim:

   - Arose out of a contract for a solar energy system as defined in subdivision (g) of BPC § 7169, installed at a residence and not as a standard feature on new construction; and the complaint investigation has resulted in a "legal action," either a citation under authority of BPC § 7099 or administrative action to suspend or revoke a contractor's license pursuant to BPC § 7090; and
   - The legal action contained either 1) an order of payment of a specified sum to an injured party in lieu of correction pursuant to BPC § 7099, or 2) an order of restitution, as a condition of probation or of a new or reinstated license pursuant to BPC § 7095, 7102, and/or Government Code § 11519; and
   - The order of payment of a specified sum to an injured party, or the order of restitution, has become the final decision of the registrar in a proceeding conducted in accordance with the provisions of Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the consumer has not received the funds; and
   - The legal action contains any one or more of the following causes of discipline: violation of BPC §§ 7107 (Abandonment), 7109 (Departure from Accepted Trade Standards or Plans or Specifications), 7110 (Violation of Building or Safety Laws), 7113 (Failure to Complete for Contract Price), 7115 (False Completion Certificate Filed to Obtain Financing), 7116 (Willful or Fraudulent Act Causing Harm), 7119 (Failure to Prosecute Work Diligently),

7120 (Failure to Pay for Materials or Services), 7159 et seq (Contract Form Requirements) or 7161 (Misrepresentation); and/or

- The legal action is against an unlicensed or a licensed contractor that the CSLB has referred to a local agency for prosecution, and that referral has resulted in a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt and contains a court ordered restitution or that has resulted in a judgment.

The ACR specified that the fund administrator would not adjudicate or determine fund amounts to be disbursed. Recovery amounts for each claim would be pre-determined by CSLB through its adjudicatory process. This recovery amount would be referred to by CSLB as a "financial injury." Every complaint that would be referred by the CSLB to the RFA for recovery would have an estimate of financial injury to the customer.

The ACR proposed that in cases involving fraud/misrepresentation in which the CSLB's financial injury determination may not sufficiently restitute the injured party, the consumer would receive a categorical amount predetermined by the Commission. The ACR further proposed that for claims involving misrepresentations where a customer has a functioning solar system but cannot afford it or does not want it, the customer would recover funds in the amount of the contract price. Finally, the ACR also proposed that the recovery amount could be capped at one-third of the contract price, or $10,000, whichever is greater, to provide a standard amount intended to only cover the funds needed to remove the solar panels and repair the roof if it is damaged.

With respect to claims administration, the ACR proposed that the RFA execute the following steps to pay out a claim:

- Verify that the claimant is an active IOU customer by contacting the relevant IOU and confirming the active account number and customer information.[8]
- Contact the claimant and verify that the claimant is the individual identified in the referred claim and that their personal and contact information is accurate.
- Collect an attestation from the claimant that they have not received other restitution for the reimbursed damages, and that if they receive in the future any other restitution through civil or criminal court proceedings they will reimburse the fund for funds received.
- Disburse funds to the claimant in the amount identified in the referred claim as the financial injury.
- For claims demonstrating fraud and/or misrepresentation (violations of BPC §§ 7116 or 7161) in which the contract price is reflected in the financial injury estimate and the customer had a negative true-up bill at the end of their first year on the NEM tariff, the RFA will add that true-up amount to the total amount paid.
- Provide a certified attestation to the CSLB of funds paid for inclusion in its records.

The ACR proposed that if claimants wished to dispute the outcome of their claim, they could use the existing process for registering a complaint against the CSLB with its Executive Office.

The ACR proposed that the source of the fund would be a new interconnection surcharge on residential IOU customers taking service under the NEM tariff. The ACR reasoned that such a surcharge would be consistent with the Commission's goal of ensuring grid reliability, expanding renewable deployment, protecting the public, and ensuring the provision of, and access to, safe and reliable utility infrastructure and services.

[8] If the customer cannot be verified as an active IOU customer, the RFA will notify the CSLB and the consumer that the referred claim is rejected.

Based on an analysis of past claims and estimates of future interconnection applications, the ACR estimated that the fund would pay out $1,631,763 worth of claims each year, and that $100,000 would be required for annual administration costs. Based on these estimates, the ACR proposed a NEM interconnection surcharge of $12.

3. Party Comment on the Proposed Fund

On October 1, 2020, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), GRID Alternatives (GRID), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), Southern California Edison Company (SCE), the Solar Energy Industries Association (SEIA), and the California Solar & Storage Association (CALSSA) filed opening comments on the ACR. On October 15, 2020, reply comments were filed by GRID, The Utility Reform Network (TURN), Central California Legal Services (CCLS), SEIA, and CALSSA. The comments of the parties are organized by topic below.

3.1. Overall Need for the Recovery Fund

Most parties supported the objective of the fund, agreeing that the issue it is intended to solve is worth addressing. SDG&E stated the "issue of remedies for consumers defrauded by solar providers to be important and worthy of careful consideration."[9] GRID believes the fund is necessary, stating that "there have been vulnerable homeowners in California, seeking to save money and/or reduce their environmental footprint with on-site solar, that have been seriously harmed. For past and future victims of fraud, a restitution fund is necessary to provide financial recourse."[10] GRID states further that "maintaining a healthy,

[9] SDG&E Opening Comments at 1.

[10] GRID reply comments at 1.

transparent, and reputable solar industry is paramount to GRID and the solar industry at large."[11]

Cal Advocates believes the proposal would protect consumers from fraud, although it does not support the proposed funding source.

SEIA and CALSSA believe that a fund can be "a useful tool for individuals who have a final judgment but cannot collect through no fault of their own," and that the fund as proposed is "workable with some adjustments."[12]

While SCE opposes the proposal and recommends we "adopt a more limited and narrowly tailored restitution program," it admits that the NEM program "has created perverse incentives and opened the door to opportunities for unethical contractors to prey on vulnerable customers."[13]

3.2. Commission Jurisdiction to Establish the Assistance Fund

Several parties were broadly critical of the ACR's proposal on jurisdictional and due process grounds. While agreeing that customers should be protected from the harm of inadequately installed solar systems, PG&E claimed that the proposed funding source raised jurisdictional concerns that were unaddressed in the ACR. Specifically, PG&E argued that "requiring customers to pay the charge… may exceed [the Commission's] constitutional authority by enforcing non-utility laws that are within the proper province of the legislature and judiciary."[14] SDG&E shared similar concerns and stated that the

[11] GRID Reply comments at 4.

[12] CALSSA opening comments at 2.

[13] SCE opening comments at 1.

[14] PG&E opening comments at 4.

Commission should consider whether the proposed surcharge "constitutes an improper 'tax' outside the Commission's authority."[15]

SCE raised multiple legal and jurisdictional challenges to the proposal. It opined that "the true goal of the compensation program appears to be fairness to defrauded consumers," and that "[w]hile promoting such fairness is a worthy goal, it is not cognate and germane to the Commission's regulation of utilities."[16] SCE also asserted that the California Supreme Court has held that the Commission does not have the authority under Public Utilities Code §§ 701 and 728 to create ratepayer-funded compensation schemes for third parties absent direction from the Legislature. SCE argued that Public Utilities Code § 734 only allows the Commission to order reparations concerning a "rate… for a product or commodity furnished or service performed by a public utility" and not for compensation for inadequate solar installations performed by solar contractors.[17]

SCE argued that a customer should not be eligible to receive compensation from the recovery fund unless they had previously exhausted their judicial remedies (*i.e.*, sought judgment in a civil court for their losses), or else the process risked infringing upon the jurisdiction of the civil court system.

CCLS contradicted SCE's assertions, claiming that there are significant barriers to access of the judicial system by customers affected by inadequate solar installations. They argued that the current length of time to litigate a claim at civil court, combined with the expense of retaining counsel, make it more likely that an affected customer would accept a settlement contrary to their interest. They also asserted that small claims court was not an effective option, given the

[15] SDG&E opening comments at 2.

[16] SCE opening comments at 8.

[17] SCE opening comments at 12.

lack of English-language proficiency and internet connectivity required to substantially participate in hearings before such a court. However, CCLS noted that some customers may need to pursue civil action in spite of these barriers for other reasons, and therefore customers should be eligible to apply to the RFA if they have a court's judgment (or arbitration award) in hand.

In contrast, other parties state that the Commission has sufficient authority to implement the proposal. TURN broadly affirms the Commission's authority by noting that "the Commission has exclusive jurisdiction over the requirements governing eligibility for NEM."[18] Cal Advocates believes that the fund would address solar fraud, and states that doing so is directly within the Commission's mandate of implementing the NEM program and ensuring that renewable generation continues to grow.[19]

3.3. Proposed Funding Source

Several parties raised concerns regarding the proposed $12 interconnection surcharge that would be used to capitalize the fund. In general, parties oppose collecting the funds from participating NEM customers for two reasons: they believe the funding should come from solar developers, and because they are concerned that those who pay the fee may not benefit from the fund.

PG&E, SCE, and SDG&E oppose the surcharge and argue that any such fees should be collected from contractors directly by the CSLB pursuant to legislation. They also claim that customers paying the fee are unlikely to directly benefit from the recovery fund.[20]

---

[18] TURN reply comments at 5.

[19] Cal Advocates opening comments at 1-2.

[20] *See* PG&E opening comments at 2.

PG&E noted that the Commission's efforts to prospectively reduce misleading solar marketing would likely lead to fewer complaints about inadequate solar installations in the future, which in turn would make it even more likely that customers paying the recovery fund fee would not benefit from the fund.[21]

Cal Advocates opposed the proposed interconnection surcharge on the grounds that NEM customers as a group should not pay for the harms caused by solar contractors, even if some NEM customers benefit from the proposed recovery fund.[22] TURN stated that if the fund is "created in response to unscrupulous or improper business practices by some solar providers, it is appropriate for participants in the solar industry to contribute to any recovery fund that is created."[23]

CALSSA and SEIA lodged an objection to the ACR's proposal on these grounds as well, specifically arguing that NEM customers that receive solar as part of new home construction should not pay the proposed interconnection surcharge.[24]

3.4. Fee Level and Relevance to Cost of Service

PG&E, SCE and SDG&E each argued that the proposed $12 interconnection fee was not related to any cost of service imposed by NEM customers. According to PG&E, "[w]hile the one-time surcharge to residential NEM customers would be paid as part of the interconnection fee, it is not a cost of service, rate, tariff or customer service charge applicable to utility service. The

[21] PG&E opening comments at 3.

[22] Cal Advocates opening comments at 2.

[23] TURN reply comments at 2.

[24] CALSSA/SEIA opening comments at 5-6.

customers who would pay the surcharge have not violated [Commission] rules or orders, so [Public Utilities] Code [§§] 2100, et seq. similarly do not provide a basis for the charge."[25]

SCE also argued that the proposed interconnection surcharge was contrary to D.16-01-044 which determined the NEM interconnection fee to be paid by SCE's NEM customers based on an analysis of the costs to serve SCE's NEM customers.[26] SCE also pointed to a recent Commission decision which found that it is inconsistent with cost causation principles to allocate costs to customers based solely on indirect societal benefits – which SCE argued the ACR proposes to do by levying a $12 surcharge to deter malfeasance by third parties.[27] With respect to the ACR's rationale that future NEM customers would potentially benefit from recovery fund payouts, SCE attempted to refute the reasoning by citing a Commission decision holding that "costs should be borne by those customers who cause the utility to incur the expense, not necessarily by those who benefit from the expense."[28] SCE pointed out that many customers that would be eligible for compensation from the recovery fund will never pay the surcharge (*i.e.*, customers already interconnected or those that failed to interconnect in the first place).[29]

---

[25] PG&E opening comments at 3-4.

[26] SCE opening comments at 18.

[27] SCE opening comments at 18, citing D.19-09-004 at 9.

[28] SCE opening comments at 19, citing D.14-12-024 at 48.

[29] SCE opening comments at 19.

Additionally, SCE argued that the setting of the $12 surcharge in the quasi-legislative phase of this proceeding would be unlawful as it is arbitrary and not related to any cost to serve NEM customers.[30]

3.5. Exempting Low-income Customers

Cal Advocates argued that if the proposed recovery fund is established, low-income NEM customers should not pay the proposed surcharge. Cal Advocates reasoned that this exemption would avoid creating an additional barrier to solar adoption by low-income households.[31] GRID Alternatives also recommended exempting all low-income customers from the interconnection surcharge, and suggested that an exemption be granted to customers that participate in a low-income solar program.[32] TURN agreed with the positions of both Cal Advocates and GRID.[33] CCLS also supported an exemption from the surcharge for low-income customers.[34]

3.6. Other Funding and Budget Considerations

Parties raised several concerns related to the recovery fund's proposed budget, solvency, and future financial needs. These concerns are summarized below.

3.6.1. Fund Size

CALSSA and SEIA argued that the Commission should revise the ACR's estimate for the recovery fund's size, with an estimate based "on the actual

---

[30] SCE opening comments at 17, citing *Ponderosa Tel. Co. v. Cal. P.U.C.* (2019) 36 Cal.App.5th 999, 1019 ("arbitrary decisionmaking is precluded"; "if an agency decision is shown to be 'arbitrary' . . . or to 'exceed the bounds of reason,' an abuse of discretion will be found") (citations and internal markings omitted).

[31] Cal Advocates opening comments at 3-4.

[32] GRID opening comments at 2, reply comments at 3-4.

[33] TURN reply comments at 3.

[34] CCLS reply comments at 5.

orders of payment or restitution issued by the CSLB over the determined relevant period" rather than those simply referred to legal action.[35] They also recommended capping the amount of the interconnection surcharge and revisiting the amount every three years, in order to provide certainty to market actors, with an initial cap of $20.[36] SCE asserted that the proposed $1.6 million initial recovery fund budget and the proposed $12 surcharge appear to be arbitrary numbers "calculated with a very limited amount of data."[37]

SCE also argued that it will take years for the recovery fund to be adequately capitalized and that as a consequence "claims must be submitted and paid out on a rolling basis as the fund becomes solvent" rather than immediately as implied by the ACR's proposal.[38]

3.6.2. Fund Solvency

CALSSA and SEIA also recommended that the Commission should institute a requirement that should the fund operate at a loss in any one year, it would "revisit various criteria of the fund's administration to rectify the deficit." They asserted that recovery funds in other states addressed potential insolvency by placing caps on the claims paid per complainant, and caps on the claims paid per contractor,[39] although they did not suggest applying such caps at the beginning of the recovery fund's administration.[40]

---

[35] CALSSA/SEIA opening comments at 4-5.

[36] CALSSA/SEIA opening comments at 5.

[37] SCE opening comments at 7.

[38] SCE opening comments at 29.

[39] CALSSA/SEIA opening comments at 7.

[40] CALSSA/SEIA opening comments at 8.

SCE was concerned about the solvency of the recovery fund and argued that to protect the fund's solvency the Commission should: 1) limit the retroactivity of the fund or make it only available on a going forward basis, 2) limit the time for a claimant to file a claim going forward (*i.e.*, a statute of limitations), 3) cap the amount a claimant can recover from the fund, 4) cap the number of claims a customer can make on the fund, 5) set a maximum budget for the operation of the fund that must be paid for out of the charge collected to capitalize the fund, and 6) establish procedures for winding up the fund or suspending its operation in periods of insolvency.[41] SDG&E also supported a cap on recovery fund payments per claimant.[42]

TURN recommended that, if a recovery fund is capitalized by ratepayers, then the Commission should institute a cap on the total amount per claim and limit the amount of times a specific customer can recover from the fund to one.[43]

Cal Advocates recommended continual monitoring of fund disbursements, and a reduction in the interconnection surcharge if in the future the need for fund disbursements is reduced. They specifically cited the need to avoid an "overcollection of funds" through the use of a tracking mechanism that includes regular reports by the RFA to the Commission and the NEM proceeding's service list. If a pre-determined percentage of the recovery fund remained unspent for a specified period of time, Cal Advocates recommended that "it should trigger an automatic reduction in the amount of recovery fund money collected and reimbursement to the ratepayers from whom the unspent funds were collected."

[41] SCE opening comments at 25.

[42] SDG&E opening comments at 3.

[43] TURN reply comments at 2.

CALSSA and SEIA theorized that the customer protection measures currently in place for new NEM customers will lead to a reduction in inadequate solar installations in the future, and therefore a reduced budget for the recovery fund based on annual reviews of funding needs. SDG&E similarly argued for annual reviews of the recovery fund budget that is necessary to pay out estimated claims to avoid overcollections. TURN supported SDG&E's proposal, sought a bi-annual reviews of the recovery fund's financial position and forecasted financial needs, and supported the idea that excess funds held by the RFA should be automatically returned to ratepayers if unneeded by the RFA.

3.6.3. Distribution of Fund Revenue by Utility

CALSSA and SEIA argued that the interconnection surcharges collected by the large electrical corporations should be pooled into a single fund managed by the RFA, reasoning that this would ensure eligible customers could receive payments even if their electrical corporation's contributions had been exhausted.[44] SDG&E similarly supported an approach where the contributions of the large electrical corporations would be pooled in a single recovery fund for the sake of administrative efficiency.[45]

SCE recommended that funds collected from a utility's customers should fund payments made to that utility's customers, "provided that such a system does not present problems for the solvency of the fund."[46] TURN agreed that each utility's collections should only be used to fund claims by that utility's customers to avoid cross-subsidization.[47]

---

[44] CALSSA/SEIA opening comments at 8.

[45] SDG&E opening comments at 3-4.

[46] SCE opening comments at 31.

[47] TURN reply comments at 4.

3.6.4. Administrative Costs

PG&E argued that the administrative costs for the RFA were underestimated by the ACR; but did not provide an estimate of those costs.[48] CALSSA and SEIA believed that the administrative budget of $100,000 per year was reasonable, and the RFA should request from the Commission more funding in the future if necessary, with Commission approval only after a public process to consider the revised administrative budget.[49] SCE claimed that there was insufficient record regarding the role of the RFA to determine if the ACR's proposed budget was reasonable.[50] TURN expressed concern that administrative costs were uncertain, and sought a guarantee that ratepayers would not be required to backstop administrative costs or ensure initial fund solvency given these uncertainties.[51]

3.6.5 Role of the Fund Administrator

PG&E was broadly critical of the jurisdictional basis for defining the role of the RFA and asserted that the proposed role of the RFA in preventing double-recovery and determining how to refund annual true-ups implies that the RFA will fulfill a fact-finding and adjudicatory role rather than being exclusively ministerial. SCE made similar arguments.

SCE theorized that if the RFA is viewed as the agent of the Commission, then it may be bound by the restrictions of Public Utilities Code § 409 and would not be able to pay out claims without legislative appropriation. With respect to the process of selecting an RFA, SCE reasoned that there must be more detail

[48] PG&E opening comments at 7-8.

[49] CALSSA/SEIA opening comments at 8.

[50] SCE opening comments at 31-32.

[51] TURN reply comments at 4-5.

provided on how the RFA will be selected in compliance with state contracting rules, "which must be adhered to even if the Commission directs the [large electrical corporations] to enter into the contract with the RFA on the Commission's behalf." SCE argued that "[i]f the Commission chooses to proceed with the NEM recovery fund, the proper course is for the Commission to direct the [large electrical corporations] to both select and administer the contract with the RFA."

3.7. Claim Eligibility

As proposed, the fund is limited to only active, residential customers of the electric IOUs whose CSLB claim exhausts the CSLB's administrative process without receiving financial payment. SCE, CALSSA and SEIA proposed that the RFA should be allowed to receive applications directly from claimants that won a final judgment in court, in addition to accepting claims from the CSLB. They claimed this would allow customers to pursue claims in court rather than relying on CSLB processes. CALSSA and SEIA also reasoned that customers that finance their solar systems through PACE financing should be eligible as those customers would end up paying the interconnection surcharge. They assert that the CSLB can investigate complaints about PACE-funded workmanship, home-improvement contract terms, and contract misrepresentations; and that it would also be inequitable to require customers to pay into the recovery fund but be unable to access it.

As noted previously, SCE argued that customers should not be eligible for recovery fund compensation unless they had previously exhausted their judicial remedies.

TURN argued against eligibility based on income in general but conceded that if the recovery fund allows for claims regarding misrepresentations of costs and savings, "then an income cap may be necessary to ensure fund solvency."

3.8. Costs Eligible for Assistance

Most parties did not object to the main proposed scope of eligible costs, which again include those resulting from violation of the following laws: BPC §§ 7107 (Abandonment), 7109 (Departure from Accepted Trade Standards or Plans or Specifications), 7110 (Violation of Building or Safety Laws), 7113 (Failure to Complete for Contract Price), 7115 (False Completion Certificate Filed to Obtain Financing), 7116 (Willful or Fraudulent Act Causing Harm), 7119 (Failure to Prosecute Work Diligently), 7120 (Failure to Pay for Materials or Services), 7159 et seq (Contract Form Requirements) or 7161 (Misrepresentation).

SDG&E opposed the inclusion of any "punitive" costs in the calculation of recovery fund payments, arguing that such penalties should remain the realm of the civil courts.[52]

However, SCE recommended that the Commission should "limit any fund recovery to a narrow set of claims involving stranded systems or especially egregious cases of fraud in which customers were not aware they were signing a solar contract, and, even then, only after those customers have exhausted their judicial remedies and enforcement of judgment options."[53]

TURN did not support recovery fund reimbursements for losses associated with misrepresented costs or savings. TURN argued that these types of claims "would be difficult to verify and calculating 'missed savings' would be

[52] SDG&E opening comments at 3.

[53] SCE opening comments at 5.

challenging and cumbersome. Utility rates are constantly changing and it is not appropriate for the fund to act as a backstop for customer savings." TURN further asserted that the proposals for reimbursing the customer for these misrepresentations did not align with the Commission's policy goals or fairly compensate the customer for the harms incurred.[54]

3.9. Alternative and Additional Approaches

Several parties supported the policy goal of ensuring that customers experiencing inadequate solar installations receive assistance, but disagreed with the approach proposed by the ACR or suggested additional approaches. Party proposals for additional approaches and alternatively constructed regimes are summarized below.

3.9.1. Leverage Existing Solar Installation Educational Materials

Cal Advocates recommended changing the way in which the existing solar information packet is distributed in order to deter inadequate solar installations. Cal Advocates argued that the solar information packet's "availability should be more widespread and it should be made available earlier in the process of considering solar in order to more effectively prevent solar fraud, thus obviating the need for a costly recovery fund."[55] GRID also supports improvements to the solar information packet process.[56]

[54] TURN reply comments at 6.

[55] Cal Advocates opening comments at 3.

[56] GRID Alternatives reply comments at 2-3.

SCE also supported leveraging existing solar information resources, and potentially creating new resources, to help customers avoid inadequate solar installations in the first place.[57]

3.9.2. Independent Consumer Advocate

Earlier rulings in this proceeding sought party comment on the establishment of an independent solar consumer advocate. In a December 2016 assigned commissioner's ruling, parties were asked to comment on the concept of an independent consumer advocate, based on an idea first proposed by the Office of Ratepayer Advocates in 2015.[58] The majority of parties were in favor of the general concept, with questions around scope and implementation. GRID specifically stated that it would be critical for a trusted independent consumer advocate to be dedicated to low-income and underserved communities. In the first enhanced consumer protections ACR, the Commission asked for further party comment on the concept of an independent consumer advocate or consumer clearinghouse. Parties including CALSSA, SEIA, CLICC, SCE, TURN, and GRID stated support for establishing an independent consumer advocate that would act as a clearinghouse for information, assist with complaints and refer consumers to the appropriate agency with the jurisdiction to assist in their situation. GRID reiterated its prior support for an independent consumer advocate that would "working on behalf of the Commission to bolster consumer protection education and outreach efforts to protect vulnerable customers from unethical business practices."[59]

---

[57] SCE opening comments at 34-36.

[58] Administrative Law Judge's Ruling Seeking Comment on Consumer Protection and Related Issues, December 8, 2016.

[59] GRID reply comments at 3.

3.9.3. Contractor-funded Recovery Fund

Several parties suggested that the fund be capitalized with contributions from solar contractors rather than ratepayers. SCE recommended that the Commission "capitalize a Commission created fund with registration fees charged to contractors, not residential NEM customers, non-participating customers, or the utilities" and asserted that such an approach was raised in a 2019 Assigned Commissioner's Ruling issued in this proceeding, which was never formally rejected.[60] Cal Advocates suggested that a non-ratepayer funded mechanism should be established to compensate customers for inadequate solar installations.[61] SDG&E largely concurred, stating that a recovery fund approach "should start with [CSLB] and be funded by solar providers." CALSSA and SEIA asked the Commission to reject contractor-funded schemes at this time, and argued that legislative action would be required to create any such funding scheme.[62] TURN agreed that it would be more appropriate to capitalize the recovery fund using fees paid by solar contractors rather than utility customers.[63]

CALSSA and SEIA posited that if CSLB increased the bonding requirements for licensed home improvement contractors (which would increase the likelihood of financial recovery at the CSLB itself), then the policy problem the ACR seeks to address may be ameliorated.[64] CALSSA and SEIA further recommended that if the CSLB ever instituted its own recovery fund that may be

[60] SCE opening comments at 4.

[61] Cal Advocates opening comments at 3.

[62] CALSSA/SEIA reply comments at 2.

[63] TURN reply comments at 1.

[64] CALSSA/SEIA opening comments at 11.

accessed by customers eligible for the ACR's proposed recovery fund, then the Commission should dissolve its recovery fund.[65]

3.9.4. Legislative Mandate

PG&E recommended that the Commission explore a legislatively-mandated fund that solar installers would pay into and that would be administered by the CSLB.[66] SCE argued that "the solution to the problem of a recovery fund for customers defrauded by solar contractors properly lies with the California Legislature" and that the Commission should focus on engaging the Legislature to develop a solution in that forum.[67] SDG&E noted that they would support legislative action necessary to allow the CSLB to collect funds for a recovery fund.[68]

CALSSA and SEIA observed that many states have laws establishing funds similar to the one proposed in the ACR (including but not limited to solar installers). They pointed out that, unlike the ACR's proposed fund, monies for the funds typically come from surcharges imposed on the license and registration fees paid by contractors (rather than customers). They stated that California does not have a similar fund for its contractors, although it does have legislatively mandated recovery funds for lawyers, real estate agents, car dealers, and mobile home dealers.[69]

Based on this analysis, CALSSA and SEIA stated that a legislatively mandated creation of a home improvement contractor recovery fund "would

---

[65] CALSSA/SEIA opening comments at 6.

[66] PG&E opening comments at 5-6.

[67] SCE opening comments at 2.

[68] SDG&E opening comments at 2.

[69] CALSSA/SEIA opening comments at 2-3.

have an advantage over the recovery fund proposal in the [ACR] in that the recovery fund would be available to all residential customers in the state, rather than just those of the three large [electrical corporations]."[70]

3.9.5. Further Workshops

PG&E proposed further discussion among stakeholders at a workshop on several issues such as an income limitation on fee payments and whether or not to cap the recovery fund's payments.[71] CALSSA and SEIA strongly recommended further party comment before proceeding with the creation of a fund.[72]

SDG&E recommended additional workshops to refine program details, including addressing metrics, thresholds, a statute of limitations, and limits on fund disbursements.[73] TURN also supported an additional workshop.[74]

4. Discussion

The parties commenting on the ACR expressed widespread support for the policy of reimbursing customers for their economic losses that result from inadequate solar installations, although they may have disagreed with the ACR's approach to doing so. Given that there is widespread support for the policy goal that the recovery fund is intended to support, this decision finds that as a matter of public policy those NEM customers that are adversely affected by inadequate solar installations and receive no financial assistance through the CSLB processes

[70] CALSSA/SEIA opening comments at 11.

[71] PG&E opening comments at 7.

[72] CALSSA/SEIA opening comments at 2, reply comments at 5.

[73] SDG&E opening comments at 5.

[74] TURN reply comments at 7.

should receive financial assistance in the amount of their financial injury as defined by the CSLB through its adjudicatory process.

We first address several foundational considerations related to the need for the assistance fund and our authority to enact it.

4.1. The Assistance Fund is Necessary

First, we find that the assistance fund effectively provides assistance to NEM customers who have been harmed financially in a way that no other proposal in the record does. The fund provides a "missing piece" in our consumer protections efforts: for all the forward-looking and preventive measures we have adopted, and will continue to improve, no other proposal has been raised in the long record of this proceeding that directly assists IOU consumers who have already been harmed while attempting to participate in NEM. In addition to its effectiveness addressing the problem, equally important to our decision are the conclusions raised by various parties that enacting this protection for consumers is essential to ensuring the long-term sustainability of the distributed solar industry as a whole, which is one of our mandates.

The proposals made by the parties for alternatives and supplements to the ACR's proposed recovery fund are not on their own guaranteed to meet this policy goal. Most of the proposals are for programs and actions under other agencies' authority or rely on legislation; they are not executable by the Commission. Relying on legislation to provide a remedy for affected NEM customers may mean waiting years, or indefinitely, for a solution to materialize. The interconnection surcharge authorized in this decision is necessary to correct a problem that we have identified with the NEM program and is reasonably calculated to achieve that end. The Commission has already set interconnection fees for NEM, and the assistance fund addresses consumer issues that have

arisen in connection with the NEM tariff. Providing assistance through the recovery fund directly supports the NEM program and the Commission's statutory duty to support a sustainable distributed renewable generation market in the State; thus, we see no reason to defer action.

While the Commission's mandated informational materials may help to reduce inadequate solar installations in the future, they will not assist customers that suffered harm in the past or those that suffer harm in the future in spite of those informational materials. Pursuing remedies in civil court against solar contractors present barriers to recovery by many customers affected by inadequate solar installations, as noted by CCLS. And the courts are not responsible for ensuring a healthy NEM market in the state. We view solely relying on the court system to provide remedies for consumers harmed by participation in the NEM program as a dereliction of the Commission's duty to ensure a sustainable NEM market in California.

Additionally, while increasing the bonding requirement for solar contractors may provide some additional funds to pay out claims heard by the CSLB, this too would require legislation. It is also not guaranteed to address all economic harms that are incurred or provide a solution for those customers harmed by contractors whose bond funds are extinguished by other claims.

SCE raises a moral hazard argument, speculating that having an assistance fund will encourage more violations by lessening their consequences for contractors, and by making consumers less likely to be diligent when entering solar agreements by lowering the stakes should they be defrauded. SCE is grasping at straws (particularly because it also states that a recovery fund should be adopted, just with a different funding source) and this argument is unreasonable, unsupported, and profoundly paternalistic. Before reaching the

fund, all claims will first go through the CSLB's process; the offending contractor will lose their license or have it suspended for failure to pay. We have no reason to think that a contractor who wants to remain licensed, or any consumer who wants to install solar, will behave any differently because of this fund.

Finally, some parties support the fund in all main aspects except for the proposed funding collection approach, and instead want the funding to be collected by the CSLB. However, the CSLB does not have existing authority to implement this approach without legislation. In addition, there are practical obstacles and equity concerns to this approach. There are three main license types that are authorized to install residential solar in California: "B" General Building contractors, C-10 Electrical contractors, and C-46 Solar contractors. The number of actively licensed contractors in these three categories as of February 2021 (accessed from CSLB's website) was 120,789. We note that B and C-10 contractors conduct many other different types of work besides solar, and the CSLB does not track which, if any, of these contractors perform solar work or whether and how many those projects are located in IOU territories. It would not be simple to determine or enforce which contractors are actively installing solar and collect the fee only from those contractors. There is, however, a simple existing way for us to identify which licensed contractors are interconnecting NEM systems: through our oversight of interconnection and participation in the NEM program. Finally, we note that at its March 25, 2021 board meeting, the CSLB voted to support the proposed fund on the recommendation of its Enforcement Committee.

Put simply, none of the alternatives proposed by the parties will achieve the public policy goal defined by this decision as comprehensively and immediately as the ACR's proposed fund. Therefore, this decision finds that it is

reasonable and consistent with public policy to establish the Solar Consumer Assistance (SCA) fund to compensate electric IOU customers who are harmed as a result of inadequate solar installations and are unable to receive assistance through CSLB processes. The SCA fund, as described below, will compensate affected customers for the amount of economic harm they sustain as a result of inadequate solar installations and are not able to recover through CSLB processes. This economic harm will be defined by the CSLB through its administrative process, and the RFA, or as we will henceforth call it, the assistance fund administrator (AFA), will not execute any fact finding or adjudicatory functions. Its role will be strictly ministerial.

4.2. The Commission has Authority to Establish the Fund

Several parties raised jurisdictional concerns and argued that the Commission does not have the authority to create the SCA fund or capitalize it using a NEM interconnection surcharge collected from participating customers as proposed in the ACR. We reject those arguments for the following reasons.

Some parties asserted that the proposal is beyond our broad authority conferred by Public Utilities Code (PUC) § 701. The courts have found that "the primary limiting factor on PUC jurisdiction is that the [Commission's] action must be cognate and germane to utility regulation."[75] As long as "the authority sought is 'cognate and germane' to utility regulation, the [Commission's] authority under [§] 701 has been liberally construed. [Citations.]"[76] The other important limitation on the authority conferred by § 701 is a specific

[75] *PG&E Corp. v. Public Utilities Com., supra*, 118 Cal.App.4th at p. 1201.

[76] *Id*. at p. 1198, quoting *CLAM, supra*, 25 Cal.3d at pp. 905–906, citing *Covalt, supra*, 13 Cal.4th at 915.

statutory directive that prohibits the Commission's action.[77] Additionally, the courts have found that "the Legislature may confer upon [the Commission] authority in addition to the regulation of designated public utilities as long as the authority conferred is cognate and germane to utilities regulation."[78]

Here, the Legislature has found the NEM program "is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, reduce interconnection and administrative costs for electricity suppliers, and encourage conservation and efficiency."[79] The Legislature has also tasked the Commission with ensuring that the NEM program "ensures that customer-sited renewable distributed generation continues to grow sustainably ...".[80]

Here, there are no specific limits to our broad authority. We disagree with SCE that providing compensation to victimized NEM customers is not cognate and germane to public utilities regulation and therefore beyond the scope of our authority. Cal Advocates makes a complete and cogent argument that solar fraud directly undermines our NEM mandate, particularly our focus on vulnerable communities:

> "It is vital for the Commission to remove barriers to the equitable inclusion of low-income and vulnerable customer enrollment into

---

[77] (*PG&E Corp., supra*, at p. 1201; *Southern California Edison Co. v. Peevey* (2003) 31 Cal.4th 781, 792 [3 Cal. Rptr. 3d 703, 74 P.3d 795].)" (Southern California Edison Co. v. Public Utilities Com., 227 Cal. App. 4th 172, 186-187.)

[78] (Cal. Const., art. XII, § 5; People v. Western Airlines (1954) 42 Cal.2d 621, 634; Morel v. Railroad Com. (1938) 11 Cal.2d 488.)" (Decision No. 98-08-040, p. 10)

[79] PUC § 2827(a).

[80] PUC § 2827.1.

> the Net Energy Metering (NEM) tariff. There is significant evidence that these customers are not participating in NEM or receiving the benefits of decarbonization efforts at levels equivalent to the rest of the residential sector. NEM disproportionally benefits higher socio-economic standing ratepayers, while NEM costs are allocated to all ratepayers. There are significant disparities of rooftop solar deployment by race and ethnicity and the Commission must take action to eliminate barriers that hinder equitable deployment. …Solar fraud is one of the many barriers to increasing the inclusion of low-income, elderly, and non-English speaking consumers who attempt to participate in NEM."[81]

Addressing this problem is fully within our authority. The full record shows that solar consumer fraud is occurring and that complaints to the CSLB have been increasing; that solar fraud is a threat to the NEM program and the sustainability of the distributed solar industry overall; that the proposed solution effectively addresses the problem where no other proposal can; and that the commission has full authority over requirements for interconnection to the grid and participation in the NEM tariff, including collecting the proposed funding.

SCE argued that PUC § 734 limits us from establishing the fund. SCE cited *Vila v. Tahoe Southside Water Util.* for the proposition that PUC § 734 generally limits the Commission's authority to award reparations. SCE cited *Cundiff v. GTE Cal. Inc.* for the proposition that the Commission "lacks authority to provide relief under [PUC § 734] when plaintiffs were not challenging the rates for violations of the Public Utilities Act, but instead seeking restitution for violations of the [BPC] relating to the manner in which defendants billed them." SCE cited *Greenlining Inst. v. P.U.C.* for the proposition that the Commission lacks authority to adjudicate unfair competition law or false advertising claims brought under

[81] Cal Advocates opening comments 1-2.

the BPC, and that the Commission may not create jurisdiction where it does not exist.

Not only has Legislature not specifically barred the creation of an SCA fund, it included multiple specific requirements in the NEM program relevant to consumer protections, license enforcement, and financial benefits of participating customers. First, the legislature required that NEM customers provide utilities with an inspection report prepared by a California licensed contractor, demonstrating the significance that state licensure has for the legislature when it comes to the review of electrical systems by a third party. (*See* PUC § 2827(c)(2)). Second, the Legislature also directed the Commission to provide for reasonable expectations of benefits for NEM participants: PUC § 2827.1(b)(6) requires the adoption of any NEM rules to "consider a reasonable expected payback period based on the year the customer initially took service under the tariff or contract." Especially in the absence of any limitation on our authority, we view this direction to consider and provide for a reasonable expectation of participating customers to receive some benefit from the NEM program in perfect alignment with the intent of the assistance fund. IOU customers with an inadequate solar system whose contractor violated the law are not receiving a reasonable benefit.

For the reasons set forth in this decision, the SCA fund will contribute to the continued sustainability of the NEM program by increasing customer trust in the program, providing an incentive for NEM customers to identify and pursue actions against bad actors and ensuring that there are not regulatory gaps that prevent the delivery of benefits of the NEM program to customers.

The creation of the SCA fund does not prohibit those harmed from seeking relief in superior court. Rather, the fund provides an alternative form of relief

that will allow the Commission to monitor fraudulent activities in a market it is tasked with ensuring sustained growth. Likewise, the Commission's reliance on the CSLB for determining costs to repair systems further strengthens the NEM program by ensuring continued coordination between agencies and eliminating regulatory gaps in oversight of the NEM program.

SCE noted that the Commission may impose regulatory charges, as opposed to taxes, under certain conditions: "[a] charge is not a tax when, among other things, 'the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.' In other words, a fee is not a tax when it grants a 'special benefit' to the payor."[82] We appreciate and agree with this distinction and find it manifestly clear that the assistance fund provides a benefit to the customers who pay the fee. The existence of an administrative remedy for consumers who have suffered financial harm resulting from illegal actions by solar contractors is a benefit. The overall effect of the assistance fund, in remedying a complex issue that undermines consumer confidence in the solar industry, is also a benefit to all those who wish to benefit from its sustained role in our energy future. We disagree with SCE's unsupported claim that customers who pay the fee are unlikely to benefit. It is true that new interconnecting customers' fees will go to a fund for which older claims are eligible to receive funds; but new participants are also eligible, and any qualifying consumer whose claim exhausts the CSLB's process without resulting in financial payment will be eligible to receive assistance, including new customers who pay the fee. As parties note, the existing preventative measure of the solar information packet is

[82] SCE opening comments at 21.

imperfect; despite best efforts, there may be some eligible cases in the future. The SCA fund can be viewed as insurance: a source of remedy in the event that the customer incurs harm. The Commission has found in other proceedings that ratepayers may be assessed just and reasonable charges even if the benefits are theoretical and may not actually accrue to those ratepayers paying the charges.[83]

SCE also argued that the creation of the Victims of Corporate Fraud Compensation Fund by the Legislature effectively preempts the proposed recovery fund as it creates an avenue for solar customers experiencing inadequate solar installations to seek compensation. This is incorrect. The Victims of Corporate Fraud Compensation Fund is available exclusively to consumers who have exhausted the civil process and have an unpaid final civil court judgment, judgment based on an arbitration award, or a criminal restitution order. Because our process is limited to claims that have exhausted the CSLB's administrative process, there is no overlap.

4.3. The Interconnection Fee is Appropriate

Some parties, notably the utilities, argued that it was inequitable to assess a NEM surcharge if the customers that pay the charge do not impose costs on the utility or are otherwise responsible for the economic harm caused by inadequate solar installations. This argument missed the point that the fund is directly addressing a problem that the Commission has found with the NEM program. A sustainable NEM program benefits current and future NEM customers. We have already discussed the argument that customers who pay the SCA surcharge will not be able to benefit from the fund. NEM customers paying the surcharge in the

[83] *See, e.g.,* D.19-10-056 imposing the Wildfire Fund Non-Bypassable Charge on almost all customers of the large electrical corporations, in an aggregate amount of approximately $13.5 billion, even though the Wildfire Fund capitalized by the charge may never be utilized by the customer's large electrical corporation.

future will potentially be able to take advantage of the SCA fund if they suffer economic harm from inadequate solar installations, it is not accurate to claim, as some parties do, that those customers paying the charge will not benefit from the fund.

For all of these reasons, this decision finds that the ACR's proposed NEM interconnection surcharge is a just and reasonable charge given that it will promote the public policy goal of increased installation of renewable energy resources as defined by PUC § 2827,[84] and will reimburse customers paying the charge for any CSLB-defined economic harms they may suffer as a result of inadequate solar installations and are unable to collect using CSLB processes. This decision additionally finds that eligibility for the SCA should be extended to customers of small and multi-jurisdictional utilities (SMJU).[85] SMJUs that have residential solar NEM customers[86] may participate in the SCA if they so choose, using interconnection surcharges and all other processes described in this decision.

In response to comments from Cal Advocates and other parties, this decision also finds that it is reasonable to exempt NEM customers that

---

[84] Pub. Util. Code § 2827(a) ("The Legislature finds and declares that a program to provide net energy metering combined with net surplus compensation, co-energy metering, and wind energy co-metering for eligible customer-generators is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, reduce interconnection and administrative costs for electricity suppliers, and encourage conservation and efficiency").

[85] Bear Valley Electric Service, Liberty Utilities, PacifiCorp doing business as Pacific Power, and Southwest Gas Corporation.

[86] Or customers on successors to the NEM tariff, such as PacifiCorp's net energy billing program.

participate in the CARE or FERA program from the SCA fund surcharge. It is reasonable to do so in order to avoid creating an additional barrier to the installation of NEM systems by those customers.

4.4. Capitalization and Ongoing Fund Levels

Several parties raised concerns regarding the ACR's analysis of the capitalization needs of the recovery fund and its ongoing funding requirements, including the need for an increased administrative budget. These criticisms are well-taken, and this decision does not wish to undercapitalize the SCA fund. Given the importance of providing immediate relief to affected NEM customers, the SCA fund must be adequately capitalized by the time it begins to pay out claims and receive adequate funding on an ongoing basis. CALSSA recommended setting the surcharge at an amount no greater than $20 "to provide certainty to contractors and stability to the market."[87]

In order to ensure sufficient initial capitalization of the SCA fund, this decision imposes an SCA fund surcharge in the amount of $20, beginning 30 days after the effective date of this decision. This is a reasonable increase from the proposed $12, to address concerns around fund solvency, particularly given we are also adopting procedures for reporting and winding down the fund if it becomes unnecessary.

Below we discuss the process that will limit the fund administrator's payment of claims at the outset of the program. This will ensure that the SCA fund has capital on hand before it begins to pay claims related to inadequate solar installations. This decision agrees with comments made by some parties for an annual evaluation of the SCA fund's capital levels and the required

[87] CALSSA opening comments at 5.

administrative budget for the AFA. This will ensure that the interconnection surcharge is set at a level that is adequate to capitalize the SCA fund and pay for the AFA's services on an ongoing basis. The first annual review must be completed 25 months after the effective date of this decision and be conducted by Commission staff. Commission staff will then notify the participating (large and optionally SMJU) electrical corporations if they deem a revision necessary to adequately fund the SCA fund and pay for the AFA's services. Upon such notification by Commission staff, the participating electrical corporations shall each file a Tier 2 advice letter to revise the amount of the SCA fund surcharge.

The second annual review must be completed 12 months after the completion of the first annual review, and thereafter every 12 months by that date until the annual review schedule is modified by a subsequent Commission decision or by letter from the Commission's Energy Division Director or his/her/their designee. After the completion of each of these subsequent annual reviews, and upon notification by Commission staff, the participating electrical corporations shall each file a Tier 2 advice letter to revise the amount of the SCA fund surcharge higher or lower—including eliminating the surcharge-- if such a revision is deemed necessary by Commission's staff to adequately fund the SCA fund and pay for the AFA's services.

If the SCA fund falls to an inadequate level, applicants will be placed on a wait list in order of their application dates and times, and their claims will be addressed in that order once there is sufficient funding for each.

SCE provided several suggestions to ensure fund solvency. We adopt two of these and find the rest unnecessary. We find it reasonable to limit the number of claim payments an individual customer can receive from the fund to one. We also adopt reporting processes inclusive of a process for winding up the fund.

However, SCE also suggested we establish retroactivity rules and a statute of limitations, but we find this unnecessary as the CSLB already has a statute of limitations on its claims investigations process. We reject suggestions to cap payment amounts, as we have elsewhere discussed why we adopt a model in which the fund administrator disburses payment in the specific amount identified in the forwarded claim.

4.5. Administrator Role and Budget

Several parties raised concerns regarding the AFA's role and suggested that its estimated administrative budget should be increased in light of its potentially increased responsibilities. We address the AFA's role and budget here, including the adoption of some consumer advocate responsibilities.

This decision adopts a strictly ministerial role for the AFA with respect to claim amounts. The AFA is only authorized to make payments to claimants that are referred to it by the CSLB, and may only make payments in the amount of the financial harm calculated by the CSLB and that are not recovered by the claimant through CSLB processes. We do not adopt the aspects of the ACR which contemplated the AFA adding payment amounts in specified circumstances beyond the amount included in the forwarded claim. We also do not adopt suggestions from SCE and TURN to delve into the individual violations in the claims and assess them. Simply put, the AFA is not authorized to investigate claims on its own or make any payments that differ from the amount of the financial harm established by the CSLB in the referred case. This explicit restriction on the AFA's ability to act as a fact finder or adjudicator will significantly limit the administrative budget required for the AFA.

Additionally, while we do not have reason to find that the proposed structure (in which the AFA is under contract with the Commission) would raise

budget appropriation issues under PUC § 409, we agree with SCE that the AFA contract would be managed best via a direct contract with one of the utilities.

Next, we find it reasonable to adopt some limited additional responsibilities for the AFA related to consumer awareness and assistance. The ACR proposed specific AFA activities related directly to receiving and verifying claims, disbursing funds, and reporting functions. However, as GRID noted in response to the ACR, the additional layer of an independent consumer advocate will enhance general consumer awareness of the risks and benefits of going solar, which in turn "would hopefully help reduce the size of the restitution fund as more awareness of ongoing solar scams begin to take root in communities."[88]

Providing referrals and information, particularly to consumers who have concerns or an existing complaint with CSLB, is a natural function that the AFA could provide in line with its main activities. If these services can support greater awareness and assist in preventing future fraud, these are beneficial activities which would address many parties' concerns about fund solvency and should be required. Comments about the independent consumer advocate made clear that an independent entity that provides assistance, directs complaints, and supports awareness would benefit the NEM program and consumer awareness about solar. We do not intend this additional responsibility to fulfill the full extent of the ideas raised for the independent consumer advocate, nor supplant the AFA's main role, but rather see these activities as natural efficiencies and basic provision of customer service. Therefore, this decision requires that in addition to its fund administration, claim disbursal, and reporting duties, the AFA's scope should include the capacity to respond to consumers' questions;

[88] GRID ACR reply comments at 3.

direct consumers to the Commission or CSLB as appropriate; and provide links to existing information such as the solar information packet and CSLB disclosure document.

With respect to the creation of the AFA, this decision finds that it is reasonable to order PG&E to contract with a third party on behalf of the Commission to fulfill the functions of the AFA. PG&E shall use its competitive Request for Proposals (RFP) contracting processes to select an AFA, in alignment with state contracting rules. PG&E will consult with Commission staff monthly during its development of the RFP and its selection process of the winning bidder. This includes allowing Commission staff to review and assess all solicitation documents before their publication. PG&E will contract with the winning bidder and shall file a Tier 1 advice letter no later than 180 days after the effective date of this decision announcing the results of this process. The CSLB may begin referring claims to the AFA as soon as the AFA is active per the terms of the contract between the AFA and PG&E, notwithstanding the delay in paying out claims imposed by this decision.

Finally, the ACR suggested an implementation kickoff workshop or Taskforce meeting focused on detailing the administrative process by which the CSLB, Commission staff, and the AFA will interact, working out such steps as how to ensure confidentiality, track complaints, and exchange information. We find this reasonable, and will require PG&E as the AFA RFP administrator to host a workshop in coordination with the CSLB and Energy Division prior to the release of the RFP. The purpose of the workshop will be to identify necessary tasks and implementation steps (consistent with the direction in this decision) to include in the scope of work for the AFA.

4.6. Allocation of Interconnection Surcharge Funding Across the Participating Electrical Corporations

Some parties raised concerns that if all the proceeds from the interconnection surcharge are pooled, then customers of one large electrical corporation may cross-subsidize customers of other large electrical corporations. Other parties suggested that it was reasonable to pool all interconnection surcharge proceeds so that they may be spent on claims from affected customers in any utility territory.

Because the value of the existing interconnection fee is itself specific to the interconnection costs of a given utility, it is reasonable to apportion interconnection surcharge funds by utility so that they can only fund claims for customers of that utility. In this way, the surcharge may rise or fall in the future depending on the number and amount of claims presented in each utility's territory. This would also help ensure that customers of a utility that does not experience widespread inadequate solar installations would not be required to fund claims in another utility's territory.

Therefore, each participating electrical corporation shall establish a balancing account for its SCA fund surcharge collections. Amounts deposited in this balancing account shall be available to the AFA to pay claims received by the AFA on behalf of customers in that utility's territory. The funds in each participating electrical corporation's balancing account shall not be made available to the AFA to pay claims received by the AFA on behalf of customers in another utility's territory.

4.7. Costs Eligible for Recovery

The ACR proposed that, in addition to paying out claims equal to the financial injury determined by CSLB , in cases involving fraud/misrepresentation in which the CSLB's financial injury determination may

not sufficiently restitute the injured party, the consumer would receive a categorical amount predetermined by the Commission. The ACR further proposed that for claims involving misrepresentations where a customer has a functioning solar system but does not afford it or want it, the customer would recover funds in the amount of the contract price. Finally, the ACR also proposed that the recovery amount could be capped at one-third of the contract price, or $10,000, whichever is greater, to provide a standard amount intended to only cover the funds needed to remove the solar panels and repair the roof if it is damaged.

Several parties objected to the ACR's proposal to allow recovery of funds related to expected bill savings or fraud, and also proposed establishing caps on recovery amounts per claimant. Because adjusting the claim payment either above or below the amount of economic harm determined by CLSB would be an adjudicatory action, imposing a cap per claimant or allowing for the consideration of punitive payments to account for fraud would require fact finding and adjudication that the AFA is not designed to execute.

In order to ensure that the AFA fulfills a purely ministerial function, this decision revises the proposal of the ACR and finds that the AFA should only pay out claims in an amount equal to the economic harm that CSLB determines to have occurred and could not be recovered through CSLB processes. In this way, the AFA will not exercise any judgment as to the amount to be paid and will maintain a purely ministerial role.

4.8. Claims Process and Eligibility

The ACR proposed the following five eligibility criteria in order for a customer to receive assistance from the fund:

1) The customer must be an active residential customer of the electric IOUs, taking service under the NEM or NEM Successor tariff or are eligible to do so, and whose claims are referred to the RFA by the CSLB. Claims related to PACE financing would be ineligible.

2) The customer must have exhausted administrative remedies for compensation such that the only cases referred to the RFA would be solar complaint cases in which the CSLB determined that fraud/misrepresentation occurred, or that fraud/misrepresentation and/or poor workmanship or abandonment occurred; the consumer was financially harmed; payment of a specified sum to an injured party was established or an amount of restitution was ordered; and the consumer did not recover funds. The ACR proposed that the claim would meet this criterion if CLSB affirmed that the claim:

    1. Arose out of a contract for solar energy system as defined in subdivision (g) of BPC § 7169, installed at a residence and not as a standard feature on new construction; and the complaint investigation has resulted in a "legal action," either a citation under authority of BPC § 7099 or administrative action to suspend or revoke a contractor's license pursuant to BPC § 7090; and

    2. The legal action contained either 1) an order of payment of a specified sum to an injured party in lieu of correction pursuant to BPC § 7099, or 2) an order of restitution, as a condition of probation or of a new or reinstated license pursuant to BPC § 7095, 7102, and/or Government Code § 11519; and

    3. The order of payment of a specified sum to an injured party, or the order of restitution, has become the final decision of the registrar in a proceeding conducted in accordance with the provisions of Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the consumer has not received the funds; and

    4. The legal action contains any one or more of the following causes of discipline: violation of BPC §§ 7107 (Abandonment), 7109 (Departure from Accepted Trade Standards or Plans or Specifications), 7110 (Violation of Building or Safety Laws), 7113 (Failure to Complete for Contract Price), 7115 (False Completion Certificate Filed to Obtain Financing), 7116 (Willful or Fraudulent

Act Causing Harm), 7119 (Failure to Prosecute Work Diligently), 7120 (Failure to Pay for Materials or Services), 7159 et seq (Contract Form Requirements) or 7161 (Misrepresentation); and/or

5. The legal action is against an unlicensed or a licensed contractor that the CSLB has referred to a local agency for prosecution, and that referral has resulted in a judgment following a plea or verdict of guilty or a plea of nolo contendere or finding of guilt and contains a court ordered restitution or that has resulted in a judgment.

Parties did not generally raise issues with the process for determining eligible claims, and this decision finds it reasonable to adopt the ACR's proposal, with one exception and one clarification. The ACR proposed to exclude PACE-funded solar projects on the basis that the Department of Business Oversight (since renamed the Department of Financial Protection and Innovation) has authority over recovery efforts for PACE projects. However, SCE and SEIA/CALSSA argued that PACE should be included, stating that it was unfair to exclude customers whose inadequate solar project used this funding source; and that the CSLB already investigates, forwards claims, and otherwise includes PACE-funded projects the same as any other funding source. We agree that PACE-funded projects involving solar installations should be included and therefore do not adopt the exclusion as originally proposed. Furthermore, we clarify that the reference to electric IOUs mentioned in the first eligibility criterion above includes whichever of the SMJUs that elect to participate in the SCA.

The AFA may only consider claims referred to it by CSLB, and only with a CSLB affirmation fulfilling the above criteria (with the modification as made here for PACE).

We considered comments recommending that the fund be open to claims from consumers who have a civil court judgment. Because the fund is intended to provide administrative assistance, and is built entirely upon the CSLB's existing process of investigating and adjudicating claims, we decline to broaden eligibility in this way. We also reject SCE's suggestion that the fund should only be open to customers who have already sought redress in civil court. SCE itself notes the existence of the Corporate Fraud Compensation Fund, which is intended for claims that have exhausted the judicial process without receiving financial redress. Our fund should not, and does not, overlap with this existing fund.

Furthermore, with respect to claims administration, this decision adopts the following elements of the ACR's proposal. The AFA shall execute the following steps to pay out a claim:

- Verify that the claimant is an active IOU customer by contacting the relevant IOU and confirming the active account number and customer information.
- Contact the claimant and verify that the claimant is the individual identified in the referred claim and that their personal and contact information is accurate.
- Verify no prior claims.
- Receive authorization from the claimant that they may act on the claimant's behalf in communication with the IOUs.
- Collect an attestation from the claimant that they have not received other restitution for the reimbursed damages, and that if they receive in the future any other restitution through civil or criminal court proceedings they will reimburse the fund for funds received.
- Disburse funds to the claimant in the amount identified in the referred claim as the financial injury.
- Provide a certified attestation to the CSLB of funds paid for inclusion in its records.

To respond to party comments regarding the solvency of the fund, we will further specify the following startup process for the fund to ensure that initial claims can be covered by the funds.

- Upon initial startup (after the start of its contract and the initiation of the funds by the IOUs) the fund administrator shall track all referred claims and related amounts in the order they are received from the CSLB.
- The fund administrator shall immediately begin verifying complaints, so that as funds become available the assistance can be disbursed.
- The fund administrator shall also track the funding levels available for disbursement by IOU.
- As fund levels in each IOU account reach an amount 50% greater than the financial injury amount specified in the oldest complaint in that service territory, the administrator shall disburse the financial assistance to that claimant.
- On a monthly basis, the fund administrator shall report to Energy Division the status of claims received and the status of funding available for disbursement by IOU.

The ACR proposed that if claimants wished to dispute the outcome of their claim, they could file a complaint at the CSLB under its existing process for registering a complaint against the CSLB with its Executive Office. No party objected to this, and this decision affirms that this is an appropriate way to resolve claimant disputes.

With respect to retroactivity, this decision is mindful of party comments on the ACR proposal that there should be some time limit of the retroactive nature of the proposed recovery fund. We find it unnecessary to adopt a requirement here, as the CSLB already has a four year statute of limitations for its complaints process.

5. Comments on Proposed Decision

The proposed decision of Commissioner Martha Guzman Aceves in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

6. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and Patrick Doherty and Valerie U. Kao are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. D.20-02-011 noted the intent of the Commission to consider a recovery fund for solar consumers affected by inadequate solar installations.
2. CSLB received an average of 90 new solar-related complaints per month in FY 2019-20. This monthly average complaint count is the highest CSLB has experienced since 2015.
3. In FY 2019-20, 122 complaints were referred by the CSLB to legal action.
4. Between January 2018 and July 2020, CSLB referred 251 solar-related complaints to legal action. Of these, 141 complaints were closed by the CSLB because the contractor's license had already been revoked. 17 complaints involved unlicensed contractors. In 110 of the 251 solar-related complaints, the CSLB alleged either misrepresentation in violation of BPC § 7161 or a willful and fraudulent act in violation of BPC § 7116. In 124 of the 251 solar-related complaints, the CSLB alleged poor workmanship in violation of BPC § 7109. In 72 of the 251 solar-related complaints, the CSLB alleged abandonment of the project by the contractor without legal excuse, in violation of BPC § 7107.

5. Adoption of a recovery fund in tandem with continued coordination between the partner agencies of the Interagency Solar Consumer Protection Taskforce will provide customers affected by inadequate solar installations with a remedy that also advances California's interest in NEM adoption. Alternatives to the ACR's proposed recovery fund are not guaranteed to meet the policy goal of compensating NEM customers adversely affected by inadequate solar installations who are not able to realize recovery using CSLB processes.

6. The consumer harm stemming from participation in NEM must be addressed to protect the longevity and reputation of the NEM program.

7. Relying on legislation and the courts to provide a remedy for affected NEM customers would be a dereliction of the Commission's duty to ensure a sustainable NEM market in California.

8. The Commission does not have the authority to levy fees on solar providers directly.

9. Pursuing remedies in civil court against solar contractors can be arduous and present barriers to recovery by many customers affected by inadequate solar installations.

10. None of the alternatives to the ACR's proposal offered by the parties will achieve the public policy goal defined by this decision as comprehensively and immediately as the ACR's proposed recovery fund.

11. Imposing the SCA fund interconnection surcharge will ensure that utility customers can have confidence that they will be able to install NEM systems free from economic harm sustained through no fault of their own.

12. Imposing the SCA fund interconnection surcharge will promote the installation of NEM systems in California by alleviating customer concerns regarding inadequate solar installations.

13. The SCA fund will contribute to the continued sustainability of the NEM program by increasing customer trust in the program, providing an incentive for NEM customers to identify and pursue actions against bad actors and ensuring that there are not regulatory gaps that prevent the delivery of benefits of the NEM program to customers.

14. The value of the existing interconnection fee is itself specific to the interconnection costs of a given utility.

15. Adjusting a claim payment either above or below the amount of economic harm determined by CLSB would be an adjudicatory action by the Commission.

16. Imposing a cap per claimant or allowing for the consideration of punitive payments to account for fraud would require fact finding and adjudication that the AFA is not designed to execute.

17. The AFA should fulfill a purely ministerial function.

Conclusions of Law

1. As a matter of public policy those NEM customers that are adversely affected by inadequate solar installations and are unable to realize recovery through the normal CSLB processes should be compensated for their economic losses as defined by the CSLB through its adjudicatory process.

2. Enacting this decision's protection for consumers is essential to ensuring the long-term sustainability of the distributed solar industry as a whole.

3. Providing assistance through the recovery fund directly supports the NEM program and the Commission's statutory duty to support a sustainable distributed renewable generation market in the State.

4. It is reasonable and consistent with public policy to establish the SCA fund to compensate utility customers for the economic harm they sustain as a result of inadequate solar installations and are unable to recover through CSLB processes.

5. The interconnection fee surcharge that will provide the source for the fund is reasonably calculated to benefit all NEM customers through the correction of a problem identified with the NEM program.

6. Ratepayers may be assessed just and reasonable charges even if the benefits are theoretical and may not actually accrue to those ratepayers paying the charges.

7. The SCA fund interconnection surcharge is a just and reasonable charge given that it will promote the public policy goal of increased installation of NEM systems as defined by PUC § 2827 and will reimburse customers paying the charge for any CSLB-defined economic harms they may suffer as a result of inadequate solar installations and are unable to collect using CSLB processes.

8. Because consumers harmed by participation in the NEM program threatens the reputation and sustainability of NEM program, failure to act to establish the fund would be a dereliction of the Commission's duty to ensure a sustainable NEM market in California.

9. It is reasonable to exempt NEM customers that participate in the CARE or FERA program from the SCA fund surcharge to avoid creating an additional barrier to the installation of NEM systems by those customers.

10. In order to ensure sufficient initial capitalization of the SCA fund, it is reasonable to impose an SCA fund interconnection surcharge in the amount of $20, beginning 30 days after the effective date of this decision.

11. It is reasonable to conduct an annual evaluation of the SCA fund's capital levels and the required administrative budget for the AFA to ensure that the interconnection surcharge is set at a level that is adequate to capitalize the SCA fund and pay for the AFA's services on an ongoing basis.

12. It is reasonable to apportion interconnection surcharge funds by utility so that they can only fund claims for customers of that utility.

13. The AFA should only pay out claims to customers in an amount equal to the economic harm that CSLB determines to have occurred and could not be recovered through CSLB processes.

14. In order to ensure that the initial and ongoing capitalization of the SCA fund is sufficient to pay out historic claims, it is reasonable to require that the AFA may only pay out claims related to inadequate solar installations that occurred on January 1, 2016 or later.

O R D E R

IT IS ORDERED that:

1. Each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall impose on its residential net energy metering customers an interconnection surcharge in the amount of $20, beginning 30 days after the effective date of this decision.

2. If directed by Commission staff, each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall file a Tier 2 advice letter to revise the amount of the interconnection surcharge referenced in Ordering Paragraph 1 if such a revision is deemed necessary by Commission staff to sufficiently capitalize the Solar Consumer Assistance Fund and pay for the services of the Assistance Fund Administrator.

3. Pacific Gas and Electric Company (PG&E) shall contract with a third party on behalf of the Commission to fulfill the functions of the Assistance Fund Administrator (AFA) as defined by this decision. PG&E shall use its competitive Request for Proposals (RFP) contracting processes to select an AFA, in alignment with state contracting rules. PG&E shall consult with Commission staff monthly during its development of the RFP and its selection process of the winning bidder. This includes allowing Commission staff to review and assess all solicitation documents before their publication. Prior to the release of the RFP, PG&E shall host a workshop in coordination with the Contractors State License Board and Energy Division to identify necessary tasks and implementation steps consistent with the direction in this decision to include in the scope of work for the AFA. PG&E shall contract with the winning bidder and shall file a Tier 1 advice letter no later than 180 days after the effective date of this decision announcing the results of this process.

4. Each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall establish a balancing account to receive collections of the interconnection surcharge referred to in Ordering Paragraph 1. Amounts deposited in each balancing account shall be available to the Assistance Fund Administrator to pay claims received by the Assistance Fund Administrator on behalf of customers in that utility's territory. The funds in each large electrical corporation's balancing account shall not be made available to the Assistance Fund Administrator to pay claims received by the Assistance Fund Administrator on behalf of customers in another utility's territory.

5. This consolidated proceeding remains open.

This order is effective today.

Dated _____, at San Francisco, California.